

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

The specification has been amended to correct minor informalities included in the substitute specification filed August 19, 2004. It is respectfully submitted that no new matter is added to the specification.

Claims 2-19 are pending in the present application. Claims 2 and 5-19 are amended, and support for the amendments is found in the Applicants' specification at least at page 13, lines 6-20 and Figures 1, 10, 14, 23, 27, and 33. It is respectfully submitted that no new matter is added by this amendment.

In the outstanding Office Action, Claims 2, 3, 5-13, and 17-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over Abecassis (U.S. Publication No. 2001/0041053) in view of Flavin et al. (U.S. Patent No. 6,219,788 B1, hereinafter Flavin), further in view of Reilly et al. (U.S. Patent No. 5,740,549, hereinafter Reilly); Claim 4 was rejected under 35 U.S.C. §103(a) as unpatentable over Abecassis, Flavin, and Reilly as applied to Claim 2 and further in view of Schlarb et al. (U.S. Patent No. 6,671,879, hereinafter Schlarb); and Claims 14-16 were rejected under 35 U.S.C. §103(a) as unpatentable over Abecassis, Flavin, and Reilly as applied to Claim 2 and further in view of Wilkins (U.S. Patent No. 5,446,919).

Applicants thank Examiner Charles and Supervisory Examiner Sough for the interview granted Applicants' representatives on December 9, 2004. During the interview the outstanding rejections were discussed in detail. More specifically, it was discussed that the applied art fails to teach or suggest that the administrator server collects an advertisement rate from an advertiser and pays an execution fee to the holder of the digital content.

Independent Claims 2, 17, and 19 recite a digital content billing system using a network, including: a holder; a distributor server; an advertiser; and an administrator server.

The digital content billing system recited in amended Claim 2 includes an administrator server “collecting an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user, and paying an execution fee to the holder that corresponds to the number of execution times of the digital content.” In operation, as illustrated in non-limiting illustrations in Figures 6-9, the administrator server bills the advertiser for advertisements seen by the user ST32, collects payments of an advertisement rate corresponding to the advertisements seen by the user ST33, and pays an execution fee to the holder for the digital content downloaded to the user ST34.

The digital content billing system as recited in amended Claim 2 allows the user to execute desired digital content without payment. Therefore, since the users are not paying for the digital content, the holder’s distribution of digital content increases. The holder receives payment for the digital content from the administrator server that simply collects an advertising rate from an advertiser instead of collecting an execution fee from each user, which is difficult, time consuming, and resource consuming. Therefore, the digital content billing system as recited in amended Claim 2 simplifies the billing for digital content, increases reliability in the collection of fees, and increases the distribution of digital content. With this in mind, a comparison of the claimed invention in view of the cited references is now provided.

Addressing now the rejection of Claims 2, 3, 5-13, and 17-19 under 35 U.S.C. § 103(a) as unpatentable over Abecassis, Flavin, and Reilly, that rejection is respectfully traversed by the present response.

Abecassis is directed to a content on demand advertisement system, wherein the viewer is compensated for verified apparent viewing of a selected advertisement.<sup>1</sup> Abecassis simply states that a content on demand architecture can be used for advertisements in addition

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<sup>1</sup> Abecassis, Abstract.

to movies, news, sports, and educational videos, and discloses a method for compensating **viewers** for the verified apparent viewing of the advertisement.<sup>2</sup> More specifically, a random access pointcast architecture provides the means for a viewer to select and retrieve a desired advertisement, and provides the means to **compensate the viewer** for the verified apparent viewing of the advertisement, thereby creating a transactional one to one relationship between the producer of the advertisement and viewer of the advertisement.<sup>3</sup> Further, the compensation received by the viewer may be in the form of coupons, rebates, or credits toward additional services provided by the on demand advertisement system.<sup>4</sup>

However, Abecassis does not disclose or suggest a digital content billing system including an administrator server “collecting an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user, and paying an execution fee to the holder that corresponds to the number of execution times of the digital content.” Further, in the digital content billing system of amended Claim 2, the user does not receive compensation from the holder, nor does the user pay the holder for the digital material. Therefore, Abecassis does not teach or suggest the digital content billing system recited in amended Claim 2, which simplifies the billing of digital content, increases the reliability in the collection of fees, and increases the distribution of digital content.

Flavin is directed to a watchdog system that monitors and prevents tampering of electronic content and statistics relating to the distribution of the electronic content so that both the producers and distributors are provided with relevant and trustworthy information concerning the electronic content and its distribution.<sup>5</sup> The computer watchdog system of Flavin acts to ensure the just execution of agreements between the producer of the electronic content and the distributor of the electronic content.

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<sup>2</sup> Abecassis, page 25, paragraph 0383-0385.

<sup>3</sup> Abecassis, page 25, paragraph 0385; page 27, paragraph 0416.

<sup>4</sup> Abecassis, page 27, paragraphs 0416-0420.

<sup>5</sup> Flavin, column 4, lines 16-60.

Flavin is not directed to a digital content billing system, and thus also does not teach or suggest a digital content billing system with an administrator server “collecting an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user, and paying an execution fee to the holder that corresponds to the number of execution times of the digital content,” as recited in amended Claim 2. Therefore, Flavin does not cure the deficiencies as discussed above with respect to Abecassis.

Reilly is directed to an information and advertising distribution system, wherein an information administrator in each workstation establishes communication with an information server periodically to update information items and advertisements stored in a local memory.<sup>6</sup> An information display controller in each work station displays at least a subset of the information items and advertisements stored in the local memory when the workstation meets pre-defined idleness criteria.<sup>7</sup>

However, Reilly is not directed to a digital content billing system, and also does not teach or suggest a digital content billing system with an administrator “collecting an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user, and paying an execution fee to the holder that corresponds to the number of execution times of the digital content,” as recited in amended Claim 2. Therefore, Reilly also does not cure the deficiencies as discussed above with respect to Abecassis.

Therefore, Abecassis, Flavin, and Reilly, either alone or in any proper combination, do not teach or suggest the above discussed features of amended Claim 2. Further, the cited references of Schlarb and Wilkins have been considered, but Schlarb and Wilkins also fail to cure the deficiencies of Abecassis, Flavin, and Reilly with regard to amended Claim 2.

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<sup>6</sup> Reilly, column 2, line 61 to column 3, line 24.

<sup>7</sup> Reilly, column 2, line 61 to column 3, line 24.

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Accordingly, it is respectfully requested that the rejection to Claim 2 under 35 U.S.C. §103(a) be withdrawn.

Independent Claims 17 and 19 share substantially the same limitations as discussed above with respect to amended Claim 2, and therefore are allowable for at least the same reasons as amended Claim 2. Likewise Claims 3-16 and 18 that depend from Claims 2 and 17 are likewise allowable.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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